

I certify that the attached is a true and
correct copy of Rep # 53, which
was filed of record on 2-7-85
and referred to the committee on:

FILED FEB 7 1985
1985 FEB 26 PM 2:47
HOUSE OF REPRESENTATIVES

Jed. AF.

Betty Murray
Chief Clerk of the House

By T. Smith

A C.R. No. 53

CONCURRENT RESOLUTION

WHEREAS, Cecil Middleton alleges that:

(1) he was employed for six years as a property manager for the Texas Department of Water Resources;

(2) he took two weeks off from his job at the department to attend a mandatory naval reserve camp from August 22, 1984, to September 6, 1984; and

(3) when he returned, he was informed that the department had terminated his employment on September 2, 1984, alleging poor job performance; now, therefore, be it

RESOLVED by the Legislature of the State of Texas, That Cecil Middleton is granted permission to sue the State of Texas and the Texas Department of Water Resources for any relief to which he may be entitled as a result of this claim; and, be it further

RESOLVED, That in the event suit is filed, service of citation and other required process be made on the attorney general of the State of Texas and on the executive director of the Texas Department of Water Resources and that the suit be tried as other civil suits; and, be it further

RESOLVED, That nothing in this resolution may be construed as an admission by the State of Texas, or by any of its employees, agents, departments, agencies, or political subdivisions, of liability or of the truth of any allegation asserted by the claimant, but the alleged cause of action must be proved under the law of this state as in other civil suits; and, be it further

1 RESOLVED, That nothing in this resolution may be construed as
2 a waiver of any defense, of law or fact, available to the State of
3 Texas or to any of its employees, agents, departments, agencies, or
4 political subdivisions, but every defense is specifically reserved.

HOUSE COMMITTEE REPORT

1st Printing

By Smith of Travis

H.C.R. No. 53

Substitute the following for H.C.R. No. 53:

By Gilley

C.S.H.C.R. No. 53

HOUSE CONCURRENT RESOLUTION

1 WHEREAS, Cecil Middleton alleges that:

2 (1) he was employed for six years as a property manager for
3 the Texas Department of Water Resources;

4 (2) he took two weeks off from his job at the department to
5 attend a mandatory naval reserve camp from August 22, 1984, to
6 September 6, 1984; and

7 (3) he returned on September 2, 1984, and was informed that
8 his employment was terminated effective September 6, 1984, alleging
9 poor job performance; now, therefore, be it

10 RESOLVED by the Legislature of the State of Texas, That Cecil
11 Middleton is granted permission to sue the State of Texas and the
12 Texas Department of Water Resources for any relief to which he may
13 be entitled as a result of this claim; and, be it further

14 RESOLVED, That in the event suit is filed, service of
15 citation and other required process be made on the attorney general
16 of the State of Texas and on the executive director of the Texas
17 Department of Water Resources and that the suit be tried as other
18 civil suits; and, be it further

19 RESOLVED, That this permission applies only to a suit filed
20 before the second anniversary of the effective date of this
21 resolution; and, be it further

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3 law of this state as in other civil suits; and, be it further

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6 Texas or to any of its employees, agents, departments, agencies, or
7 political subdivisions, but every defense is specifically reserved,
8 except the defense of immunity from suit without legislative
9 permission; and, be it further

10 RESOLVED, That nothing in this resolution affects the state's
11 ability to plead res judicata to any issue; and, be it further

12 RESOLVED, That nothing in this resolution may be construed as
13 a waiver of the state's sovereign immunity under the Eleventh
14 Amendment to the United States Constitution or as granting
15 permission to sue the state in any federal court.

COMMITTEE REPORT

The Honorable Gib Lewis
Speaker of the House of Representatives

March 25, 1985
(date)

Sir:

We, your COMMITTEE ON JUDICIAL AFFAIRS, to whom was referred H.C. R. 53 have had the same under consideration and beg to report back with the recommendation that it (measure)

- () do pass, without amendment.
- () do pass, with amendment(s).
- (✓) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

A fiscal note was requested. () yes (✓) no An actuarial analysis was requested. () yes (✓) no

An author's fiscal statement was requested. () yes (✓) no

The Committee recommends that this measure be placed on the ~~(Local)~~ or ~~(Consent)~~ Calendar.

This measure () proposes new law. () amends existing law.

House Sponsor of Senate Measure _____

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Tejeda, Ch.	✓			
Gilley, V.C.	✓			
Hinojosa, C.B.O.	✓			
Evans, L.	✓			
Green	✓			
Hudson, S.				✓
Parker	✓			
Patronella				✓
Smithee	✓			

Total 7
0 aye
0 nay
0 present, not voting
2 absent

Frank Tejeda
CHAIRMAN
Laura Calfee
COMMITTEE COORDINATOR

ADOPTED

APR 4 1985

of Travis

Betty Mussey
Chief Clerk

Substitute the following for H.C.R. No. 53 by Smith of ~~House~~ of Representatives

By: *[Signature]*

C.S.H.C.R. No. 53

(T. E. D.)

CONCURRENT RESOLUTION

WHEREAS, Cecil Middleton alleges that:

(1) he was employed for six years as a property manager for the Texas Department of Water Resources;

(2) he took two weeks off from his job at the department to attend a mandatory naval reserve camp from August 22, 1984, to September 6, 1984; and

(3) he returned on September 2, 1984, and was informed that his employment was terminated effective September 6, 1984, alleging poor job performance; now, therefore, be it

RESOLVED by the Legislature of the State of Texas, That Cecil Middleton is granted permission to sue the State of Texas and the Texas Department of Water Resources for any relief to which he may be entitled as a result of this claim; and, be it further

RESOLVED, That in the event suit is filed, service of citation and other required process be made on the attorney general of the State of Texas and on the executive director of the Texas Department of Water Resources and that the suit be tried as other civil suits; and, be it further

RESOLVED, That this permission applies only to a suit filed before the second anniversary of the effective date of this resolution; and, be it further

RESOLVED, That nothing in this resolution may be construed as an admission by the State of Texas, or by any of its employees, agents, departments, agencies, or political subdivisions, of liability or of the truth of any allegation asserted by the claimant, but the alleged cause of action must be proved under the law of this state as in other civil suits; and, be it further

RESOLVED, That nothing in this resolution may be construed as a waiver of any defense, of law or fact, available to the State of Texas or to any of its employees, agents, departments, agencies, or political subdivisions, but every defense is specifically reserved, except the defense of immunity from suit without legislative permission; and, be it further

RESOLVED, That nothing in this resolution affects the state's ability to plead res judicata to any issue; and, be it further

RESOLVED, That nothing in this resolution may be construed as a waiver of the state's sovereign immunity under the Eleventh Amendment to the United States Constitution or as granting permission to sue the state in any federal court.

HOUSE ENGROSSMENT

By Smith of Travis

H.C.R. No. 53

HOUSE CONCURRENT RESOLUTION

1 WHEREAS, Cecil Middleton alleges that:

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15 permission to sue the state in any federal court.

1 By: Smith of Travis (Senate Sponsor - Barrientos) H.C.R. No. 53
2 (In the Senate - Received from the House April 9, 1985;
3 April 10, 1985, read first time and referred to Committee on
4 Jurisprudence; April 24, 1985, reported favorably; April 24, 1985,
5 sent to printer.)

6 HOUSE CONCURRENT RESOLUTION

7 WHEREAS, Cecil Middleton alleges that:

8 (1) he was employed for six years as a property manager for
9 the Texas Department of Water Resources;

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11 attend a mandatory naval reserve camp from August 22, 1984, to
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45 permission to sue the state in any federal court.

46 * * * * *

47 Austin, Texas
48 April 24, 1985

49 Hon. William P. Hobby
50 President of the Senate

51 Sir:

52 We, your Committee on Jurisprudence to which was referred H.C.R.
53 No. 53, have had the same under consideration, and I am instructed
54 to report it back to the Senate with the recommendation that it do
55 pass and be printed.

56 Mauzy, Chairman

COMMITTEE HISTORY

COMMITTEE: Senate Jurisprudence

DATE: 4/23/85

H.C.R. 53 was reported back to the Senate as follows:
(Bill Number)

X Without amendments
 _____ With amendments
 _____ With Committee Substitute

Fiscal Implications: _____ Yes
 X No

Actuarial Implications: _____ Yes
 X No

	AYE	NAY	PNV	ABSENT
Senator Mauzy	✓			
Senator Brown	✓			
Senator Henderson	✓			
Senator Krier	✓			
Senator Montford				✓
Senator Parker				✓
Senator Whitmire	✓			
TOTAL	5			2

The following witnesses testified on the bill:

FOR

AGAINST

RESOURCE WITNESS

HCR 53

BY: Terral Smith

BILL ANALYSIS

PURPOSE:

Grants Cecil Middleton permission to sue the state

RESOLVES:

That Cecil Middleton is granted permission to sue the State of Texas and the Texas Department of Water Resources, and that process be made on the attorney general of Texas and the executive director of the Texas Department of Water Resources in the suit.

MRW
4-19-85
as referred

REQUEST FOR LOCAL & UNCONTESTED CALENDAR
PLACEMENT

Hon. Roy Blake, Chairman
Administration Committee

Sir:

Notice is hereby given that HCR 53, by: Smith / Barrientos

was heard by the Committee on JURISPRUDENCE on April 23, 1989
and reported out with the recommendation that it be placed on the Local and Uncontested
Calendar.

Maurice
Chairman of the reporting committee

IMPORTANT: THIS FORM MUST BE ATTACHED TO A PRINTED COPY OF THE BILL
OR RESOLUTION, WHICH ALONG WITH 14 ADDITIONAL COPIES OF THE BILL OR
RESOLUTION SHOULD BE DELIVERED TO THE OFFICE OF THE COMMITTEE ON
ADMINISTRATION, ROOM 419. PLEASE CALL 5-1134 IF YOU HAVE ANY QUESTIONS.
DEADLINE FOR SUBMITTING BILLS FOR THE LOCAL CALENDAR IS 3:00 P.M.
FRIDAYS.

F
ENROLLED

H.C.R. No. 53

HOUSE CONCURRENT RESOLUTION

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Smith of Travis

H.C.R. No. 53

President of the Senate

Speaker of the House

I certify that H.C.R. No. 53 was adopted by the House on April 4, 1985, by a non-record vote.

Chief Clerk of the House

I certify that H.C.R. No. 53 was adopted by the Senate on May 2, 1985.

Secretary of the Senate

APPROVED: _____

Date

Governor

APR 9 1985 11. Received from the House.

APR 10 1985 12. Read first time and referred to Committee on JURISPRUDENCE

APR 24 1985 13. Reported favorably.

_____ 14. Ordered not printed by the Senate.

_____ 15. Immediate consideration ordered by (unanimous consent)
(_____ yeas, _____ nays)

MAY 2 1985 *Laid before Senate*
_____ 16. Read and adopted.
Harry King
Secretary of the Senate

May 2, 1985 17. Returned to the House.

MAY 2 1985 18. Received from the Senate ~~with amendments~~

_____ 19. House (Concurred) (Refused to Concur) in Senate Amendments by a (Non-Record Vote) (Record Vote of _____ yeas, _____ nays, _____ present, not voting).

_____ 20. Conference Committee Ordered.

_____ 21. Conference Committee Report Adopted (Rejected) by a (Non-Record Vote) (Record Vote of _____ yeas, _____ nays, and _____ present, not voting).

MAY 2 1985 22. Ordered Enrolled at 12:18 *p.* M.
(time)

* H. C. R. No.

53

By

T. Amundson

HOUSE CONCURRENT RESOLUTION

granting Cecil Middleton permission to sue the State.

FEB 7 1985

1. Filed with the Chief Clerk.

FEB 25 1985

2. Read first time and referred to Committee on

Judicial Affairs

MAR 25 1985

3. Reported

~~unfavorably~~ favorably

sub.

~~(as amended)~~

and sent to Printer at

7:25 P.M.

(time)

MAR 27 1985

4. Printed and distributed at

11:49 A.M.

(time)

MAR 27 1985

5. Sent to Committee on Calendars at

1:50 P.M.

(time)

APR 4 1985

6. Read and (adopted) ~~(failed)~~ as sub. (as amended) by a

(Non-Record Vote) ~~(Record Vote of~~

~~years,~~

~~days,~~

~~present, not voting).~~

APR 4 1985

7. Ordered Engrossed

10:11 A.M.

(time)

APR 8 1985

8. Engrossed.

APR 9 1985

9. Returned to Chief Clerk at

8:30 A.M.

(time)

APR 9 1985

10. Sent to Senate.

Betty Murray
Chief Clerk of the House